IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 49 OF 2007
IN
SECOND APPEAL STAMP NO. 31216 OF 2006

Shri Premchand Kapoorchand Shah ..Applicant

Vs.

1. Kulgaon Badlapur Nagar Parishad and ors. ..Respondents

Mr. V.Z. Kankaria for applicant.

CORAM: B.H. MARLAPALLE, J.

Date : April 18, 2007.

P.C.:

1. Heard Mr. Kankaria, the learned counsel for the applicant who has filed Second Appeal under Stamp No. 31216 of 2006 but belatedly. Hence this application for condonation of delay. As per the office note, the delay caused is of two years and forty-four days.

2. Notice was served to the respondent nos.1 to 3 but they have not caused their appearance. Respondent

Nos.1 and 2 are the local self Government authorities. It appears that initially Writ Petition No. 9223 of 2004 was filed against the Lower Appellate Court's order in Civil Appeal No. 49 of 2002 and the same was not entertained on the ground that the petitioner would have remedy of filing a Civil Revision Application under Section 115 of C.P.C. Civil Revision Application No. 209 of 2006 was filed and the learned Single Judge observed that the remedy of Second Appeal was available against the impugned order. Under these circumstances, the delay caused in filing the Second Appeal deserves to be condoned.

3. Hence, the application is allowed in terms of prayer clause (a).

4. List the appeal for admission on 5/6/2007.

(B.H. Marlapalle,J.)